

PROKUREURSEKSAMEN

DEEL 2 BOEDELS

6 MAART 2019

14:00-16:15

Totaal: [100]

Kandidate kry 15 minute om die vraestel deur te lees voor hulle begin skryf. Geen kandidaat mag tydens hierdie tyd in die antwoordboek begin skryf nie. Die eksamen van 2 uur volg dan.

1. Kandidate moet al die vrae beantwoord.
2. Kandidate moet daarop let dat punte vir goeie opstelwerk toegeken word.
3. Waar nodig, moet kandidate hulle eie feite versin.
4. Skryf asseblief slegs in pen op die regterkantse bladsye.
5. Tensy daar 'n spesiale rede bestaan, word 'n kandidaat nie vir 'n mondeling in hierdie deel ingeroep as 50% en meer behaal is nie. Indien 'n kandidaat minder as 40% behaal sal hy/sy nie kwalifiseer vir 'n mondeling nie en sal hierdie deel druipe.

ATTORNEYS' EXAMINATION

PART 2 ESTATES

6 MARCH 2019

14:00-16:15

Total: [100]

Candidates are allowed 15 minutes to peruse the paper before starting to answer the questions. No candidate may start writing in the answerbook during this period. The examination of 2 hours then follows.

1. Candidates must answer all the questions.
2. Candidates must remember that marks are awarded for good draftsmanship.
3. Candidates must invent their own facts wherever necessary.
4. Please write only in pen on the right-hand pages.
5. Except if a special reason exists, a candidate will not be required to do an oral in this part if 50% or more is attained. If a candidate achieves less than 40% he/she will not qualify for an oral and will have failed this section.

VRAAG 1

[60]

David Zama sterf intestaat op 12 Februarie 2018. Hy word oorleef deur Leah Zama met wie hy binne gemeenskap van goedere getroud was. Twee kinders is uit die huwelik gebore, te wete Ray (21 jaar) en Rita (16 jaar). David het 'n derde kind Roy (29 jaar) by sy vooroorlede eggenote Linda. Sy boedel behels:

1. Woonhuis in Randburg, Gauteng, waardasie R3 800 000,00.
2. 'n Verband is oor die huis geregistreer ten gunste van Absa Bank. Die balans op sterfdatum is R825 000,00. Geen rente het na dood opgeloop nie.
3. Toyota Hilux bakkie waardasie R280 000,00.
4. Huismeubels en persoonlike besittings waardasie R260 000,00.
5. 200 aandele in Old Mutual Beperk. Waardasie R42 000,00 maar die Eksekuteur verkoop vir R48 000,00.
6. 1000 aandele in Bold Investments (Edms) Bpk. Ouditeurswaardasie R63 000,00 maar verkoop deur Eksekuteur vir R68 000,00.
7. Sanlam lewenspolis vir R1 500 000,00 met Leah as begunstigde.
8. Liberty lewenspolis vir R800 000,00. Begunstigde is vooroorlede.
9. Vaste deposito by Absa bank. Die bank betaal die Eksekuteur R636 000,00 wat R12 000,00 na-doodse rente insluit.
10. Spaarrekening by Standard Bank in Leah se naam vir R54 000,00. Sy sluit die rekening onmiddelik by sy afsterwe.

QUESTION 1

[60]

David Zama died intestate on 12 February 2018. He is survived by Leah Zama to whom he was married in community of property. Two children were born of the marriage, namely Ray (aged 21 years) and Rita (aged 16 years). David had a third child Roy (aged 29 years) from his predeceased spouse Linda. His estate consists of:

1. His house in Randburg, Gauteng valued at R3 800 000,00.
2. There is a bond registered over the house in favour of Absa Bank. The balance as at date of death is R825 000,00. No interest accrued after date of death.
3. Toyota Hilux bakkie valued at R280 000,00.
4. Household furniture and personal belongings valued at R260 000,00.
5. 200 shares in Old Mutual Limited valued at R42 000,00 and sold by the Executor for R48 000,00.
6. 1000 shares in Bold Investments (Pty) Ltd valued by the auditors at R63 000,00 but sold by the executor for R68 000,00.
7. Sanlam insurance policy on his life for R1 500 000,00. Leah was the appointed beneficiary.
8. Liberty Insurance policy on his life for R800 000,00. The beneficiary predeceased David.
9. Fixed Deposit with Absa bank. The bank paid the executor R636 000,00 which included R12 000,00 for interest after date of death.
10. A savings account in Leah's name with Standard Bank in the sum of R54 000,00. She closed the account immediately after learning of her husband's death.

11. SAID finale belastingaanslag vir R72 000,00.
12. Standard Bank Kredietkaart: Balans verskuldig op 12 Februarie 2018 was R16 700,00. Na dood is R1 170,00 rente gehef.
13. Administrasiekoste en ander laste (met uitsluiting van dié hierbo gemeld, Meestersgelde en Eksekuteursloon) R204 010,00.
14. Begrafniskoste is deur die oorledene se oom geskenk.

Stel die volgende dele van die likwidasië- en distribusierekening op:

- a) Likwidasierekening
- b) Die rekapitulasiestaat
- c) Distribusierekening
- d) Inkomste- en uitgawerekening
- e) Boedelbelasting addendum
- f) Eksekuteurssertifikaat

U rekening moet aan toepaslike wetgewing en regulasies voldoen. Die eksekuteur is nie vir BTW geregistreer nie. Versin verdere inligting indien nodig.

VRAAG 2 [11]

Jason het op 13 Januarie 2017 'n testament verly waarkragtens hysy boedelaan sy eggenoot Sarah bemaak. Jason en Sarah skei op 12 Maart 2017. Jason trou daarna op 12 April 2017 met Emily en sterf sonder kinders op 10 Mei 2017.

2.1 Emily nader u met die vraag of sy of dan Sarah Jason se boedel gaan erf. Adviseer haar ten volle met betrekking tot die regsposisie rakende haar vraag. (5)

2.2 Sou u advies anders wees as Jason op 1 September 2017 gesterf het? (6)

11. SARS final income tax assessment for R72 000,00.
12. Standard Bank Credit Card: Balance owing as at 12 February 2018 was R16 700,00. Interest charges after date of death amounted to R1 170,00.
13. Administration expenses and other liabilities (excluding those mentioned above, Master's fees and Executor's fees) amount to R204 010,00.
14. The funeral expenses were donated by an uncle of the deceased.

Draft the following parts of the liquidation and distribution account:

- a) The Liquidation account
- b) The recapitulation statement
- c) The distribution account
- d) Income and Expenditure Account
- e) Estate Duty addendum
- f) Executors Certificate

Your account must comply with the relevant legislation. The executor was not registered for VAT. Provide your own information where necessary.

QUESTION 2 [11]

Jason executed a Will on 13 January 2017 in terms of which he left his estate to his wife, Sarah. Jason and Sarah who were married out of community of property, were divorced on 12 March 2017. Jason then married Emily on 12 April 2017 and died childless on 10 May 2017.

2.1 Emily approaches you with the question as to whether she or Sarah will inherit Jason's estate. Advise your client fully with regard to the legal position on her question. (5)

2.2 Will your advice be different if Jason had died on 1 September 2017? (6)

VRAAG 3 [10]

Ernest, geskei, sterf aan beroerte terwyl hy brood koop by sy plaaslike bakkery op Nuwejaarsdag 2018. Hy word oorleef deur:

- Sy voormalige eggenote Nel
- Sy broer Kurt en dié se eggenote Mona;
- Sy suster Eileen en haar dogter Clarice;
- Sy suster Tanya met wie hy 50 jaar laas gepraat het en haar dogter Beryl;
- Sy metgesel Prudence saam met wie hy elke dag deurgebring het.

Kurt gee u opdrag om Ernest se boedel te bereedder en bring u Ernest se oorspronklike testament wat deur Ernest met die hand geskryf is maar sonder getuies. Dit bemaak sy vaste eiendom aan sy hond Jesse en die restant van sy boedel aan die plaaslike dierskuiling. Ernest besit die onderstel van 'n 1991 Ford Escort wat verkoop word vir R10 000.00 en 'n vaste deposito van R740 000.00. Hy het 'n SASSA pensioen van R1 800.00 per maand ontvang. Eileen sterf 'n maand later en Tanya is bedlënd en ly aan demensia. Hy het geen laste nie en Kurt het onderneem om alle administrasiekoste te dra.

Hoe sal Ernest se boedel vererf.

VRAAG 4 [10]

Gibson bemaak 'n kontantlegaat van R700 000.00 aan sy niggie Helen in paragraaf 4 van sy testament gedateer 5 Oktober 2017. Ses maandelater verander hy van plan en wil nou die kontantlegaat liewers aan sy suster Joyce bemaak. Stel die toepaslike dokument op wat uitvoering gee aan sy wense.

VRAAG 5 [9]

U word geraadpleeg deur die familie van wyle Moses Cele. Hulle gee u 'n twee bladsy dokument getitel "Laaste Wil en Testament". Die eerste bladsy van die dokument is onderteken deur die

QUESTION 3 [10]

Ernest, a divorcé, suffers a fatal stroke whilst buying bread at his local bakery on New Year's Day 2018. He is survived by:

- His ex wife, Nel;
- His brother, Kurt and his wife Mona;
- His sister, Eileen and her daughter Clarice;
- His sister, Tanya to whom he has not spoken in 50 years and her daughter Beryl;
- His companion, Prudence, with whom he spends every day.

Kurt instructs you to attend to the administration of Ernest's Estate and brings you the original of Ernest's Will which is handwritten (by Ernest), not witnessed and bequeaths his immovable property to his faithful dog Jesse and the residue of his Estate to the local animal shelter. Ernest owns the chassis of a 1991 Ford Escort which is sold for scrap for R10 000.00 and a fixed deposit of R740 000.00. He also received a SASSA pension of R1 800.00 per month. Eileen dies a month later and Tanya is bed-ridden, suffering from dementia. He has no liabilities and Kurt undertakes to pay all administration costs.

How will Ernest's estate devolve?

QUESTION 4 [10]

Gibson bequeathed a cash legacy of R700 000.00 to his cousin Helen in paragraph 4 of his Will dated 5 October 2017. Six months later he changes his mind and now wishes to cancel this bequest and instead bequeath this cash legacy to his sister Joyce. Draft the appropriate document to give effect to Gibson's wishes.

QUESTION 5 [9]

You are consulted by the family of the late Moses Cele who presents you with a two-page hand written document headed "Last Will and Testament". The first page of the document is

oorledene en een getuie. Die tweede bladsy is onderteken deur dieselfde getuie en die oorledene aan die einde van die dokument. U stel vas dat die testament met die hand geskryf is deur die oorledene se eggenote wat aangewys is as eksekuteur. Die familie wil weet of die Meester die testament as geldig sal aanvaar en of die Meester die oorlewende eggenote as eksekuteur sal aanstel. Watter antwoorde sal u hulle gee?

signed by the deceased and one witness. The Second page is signed by the same witness and the deceased, at the end of the document. You establish that the Will was handwritten by the deceased's spouse who is appointed as executor. The family want to know if this document will be accepted by the Master as a valid will and whether the Master will appoint the surviving spouse as executor. What advice will you give?

- DIE EINDE -

- THE END -

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